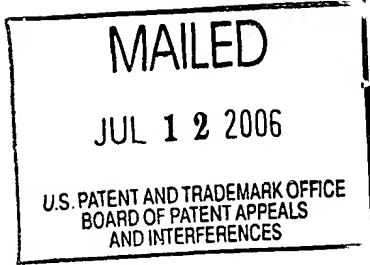


The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEV KORENEVSKY

Appeal No. 2006-0940
Application No. 10/037,548

ON BRIEF

Before KIMLIN, PAK, and KRATZ, Administrative Patent Judges.
KIMLIN, Administrative Patent Judge.

REMAND TO THE EXAMINER

This application is remanded to the examiner for the purpose of allowing the examiner to respond to appellant's arguments set forth in the Reply Brief which were not presented in the principal brief. Appellant's Reply Brief presents arguments against each of the examiner's 35 U.S.C § 102 rejections that did not appear in the main brief. For instance, with respect to the examiner's § 102 rejection over Thackara, appellant maintains that elements 17 and 26 of Thackara "are not

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presented as washers" (page 1 of Reply Brief, third paragraph). Regarding the § 102 rejection over Newman, appellant contends that "Newman's patent does not even have any mentioning of a hook, as well as any mentioning of sealing and replacement of worn parts" (page 1 of Reply Brief, fourth paragraph). Appellant also presents arguments against the § 102 rejection over Dezen that were not in the principal brief. Accordingly the examiner should respond to the new arguments presented in the Reply Brief.

Also, although the examiner states that "[t]he statement of the status of claims contained in the brief is correct" (page 2 of Answer), the examiner has not stated a rejection of claim 9, nor has the examiner stated that claim 9 is allowable. Hence, the examiner should clarify on the record whether the final rejection of claim 9 is maintained or whether claim 9 is allowed.

This remand to the examiner pursuant to 37 CFR § 41.50(a)(1) (effective September 13, 2004, 69 Fed. Reg. 49960 (August 12, 2004), 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)) is made for further consideration of a rejection. Accordingly, 37 CFR § 41.50(a)(2) applies if a Supplemental

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Examiner's Answer is written in response to this remand by the Board.

REMANDED

Edward C. Kimlin
EDWARD C. KIMLIN)
Administrative Patent Judge)


CHUNG H. PAK
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES


PETER F. KRATZ
Administrative Patent Judge

ECK:clm

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Application No. 10/037,548

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